

Hotel Operators' Occupation Tax applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

February 24, 2004

Dear Xxxxx:

This letter is in response to your letter dated January 9, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am writing to request an understanding on **Attrition fee or Cancellation fee** collected by the Hotel. I am not so clear whether we are required by the law to collect and pay taxes on the above fee. I have gone through your website and have not been able to find an article that would help me understand this issue. I would really appreciate if you would take sometime to reply this letter so I have a clear understanding of this issue. I have called a number of hotels surrounding this area and most of the hotels are not sure whether it is taxable or not taxable

ST 93-0608 -12/16/1993 GROSS RECEIPTS [GIL]

'States that restocking fee or cancellation fee for merchandise retained by a retailer is not taxable', It goes on to say 'Cancellation fee should also be handled in the same manner since no retail sales transaction has taken place that would trigger Retailers' Occupation Tax liability' Can you please look into this and see if this applies to the hotel business as well, even though we are not a retailer.

DEPARTMENT'S RESPONSE:

We regret that we cannot provide you with a specific answer in the context of a General Information Letter. Please see the Department's rules on our website listed below regarding the Hotel Operators' Occupation Tax. 86 Ill. Adm. Code 480.101 et seq.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk